

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN MICHAEL RATHBUN,

Defendants.

Crim. No. 20-mj-03061-KAR

ASSENTED-TO STATUS REPORT

The United States of America, by Andrew E. Lelling, United States Attorney for the District of Massachusetts and Assistant United States Attorney Steven H. Breslow (the “Government”), and defendant John Michael Rathbun (“Rathbun”), by his counsel Timothy Watkins hereby file the instant Status Report pursuant to Local Rule 116.5(a).

1. On April 15, 2020, the defendant was arrested and charged by Complaint with arson in violation of 18 U.S.C. §§ 844(d) and (i). (D.1). The defendant is detained. (D.12-13). On May 1, 2020, following a preliminary hearing, the Court found probable cause that the defendant committed the crimes charged in the Complaint. (D.24).

2. On May 28, 2020, the Court excluded the time period from May 21, 2020 through and including July 3, 2020 from the speedy trial clock pursuant to the Speedy Trial Act, 18 U.S.C. §§3161(h)(7)(A). (D.7, *In re: Multiple Pending Criminal Complaints; Coronavirus Public Emergency*, MBD Case No. 20-91142). On June 8, 2020, the Court excluded the time period from April 15, 2020 through and including June 2, 2020 from the speedy trial clock pursuant to the Speedy Trial Act, 18 U.S.C. §§3161(h)(7)(A). (D.4, *United States v. John Michael Rathbun*, 20-mc-93008-MGM). The Government is currently planning to obtain an indictment on or about July 9, 2020, assuming that the Grand Jury resumes sitting in Springfield.

3. On or about April 17, 2020, the Government conducted an informal discovery conference with defense counsel, and thereafter continued to discuss discovery with defense counsel and respond to defense requests. On April 23, 2020, the Court entered a Discovery Protective Order. (D.17).

4. On April 28, 2020, the Government provided an initial round of discovery, including: the Longmeadow Police Department (“LPD”) Report No. 20LON-288-OF, including photographs taken of the incendiary device seized on April 2, 2020; the defendant’s oral statements to law enforcement on April 15, 2020; the application, affidavit and search warrants (redacted) for the defendant’s residence, person, and three vehicles located at the defendant’s residence in Docket No. 20-mj-3060-KAR; photographs taken during the search; four reports by the Massachusetts State Police (“MSP”) Crime Laboratory concerning the defendant’s DNA; and other material. The Government subsequently provided, in response to defense requests, the following: the Cellebrite forensic extraction of the defendant’s iPhone; native digital files of the LPD photographs; the LPD 911 call and radio run for the incident; interview reports of the defendant’s daughter, mother, and father; reports from the Longmeadow Fire Department and MSP regarding the incendiary device.

5. The defense has requested other items, including the forensic image of the defendant’s iPhone; all video footage collected during the investigation; the forensic extraction of a computer seized from the defendant’s residence on April 15, 2020; search warrants returns and other items documenting the search and seizure of evidence on April 15, 2020, cell site location information from Verizon Wireless for the defendant’s iPhone; and expert disclosures pursuant to Fed. R. Crim. Pro 16(a)(1)(G). The Government is in the process of obtaining and producing these materials to the defense along with an automatic discovery letter, which will also request

reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D) and written notice of the defendant's intention to offer a defense of alibi.

6. The defense intends to file a motion to dismiss the Complaint, which will require a briefing schedule to be set by the Court.

7. Because the Government's investigation is ongoing, the Government does anticipate providing additional discovery as a result of its future receipt of information, documents, or reports of examinations or tests.

8. The parties agree that it is premature for a motion date to be established under Fed.R.Crim.P. 12(c) or a schedule for the timing of expert witness disclosures.

9. The parties jointly request that the Court schedule a status conference and/or an arraignment on or after July 13, 2020.

10. The parties are currently anticipating a trial. The Government expects that a trial on the expected indictment will last approximately two weeks.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

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Dated: June 14, 2020

Certificate of Service

I hereby certify that this document filed under seal will be sent by e-mail to the registered participants as identified on the Notice of Electronic Filing.

By: /s/ Steven H. Breslow
STEVEN H. BRESLOW
Assistant U.S. Attorney